

Federal Election Commission
Re: MUR 5424

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

2004 MAY 17 A 9:38

AFFIDAVIT OF VIRGINIA FOXX

1) I, Virginia Foxx, have my residence at 11468 Highway 105, Banner Elk, NC 28603

2) I am a member of the North Carolina State Senate and a candidate for the Republican nomination for Congress from the Fifth District of North Carolina.

3) The initial office of the Foxx Congressional campaign opened in Raleigh on 5/1/03. The rent for this office included phone service. In September of 2003, the campaign opened an additional office in Watauga County. A phone was installed in this office for the Congressional Campaign. The phone company (Skyline telephone) had an existing contractual relationship with the Foxx for Senate Committee. This prior arrangement inadvertently resulted in phone charges for the Watauga office being debited automatically to the Senate Committee's checking account. Through this mistake, the first four months of service from the Watauga County office were debited to the Senate Committee's checking account (October, November, December, 2003 and January 2004). When this error was discovered by Tom Foxx (my husband), the Congressional Committee reimbursed the Senate Committee for the full amount of the phone bills for these four months. This reimbursement (\$286.71) was made on February 18, 2004. This reimbursement was at my campaign's initiative prior to this issue being raised by any outside party or any newspaper account.

4) Our personal residence has two landlines, and I have a cell phone which has since 1994 been used by me for various activities, including my senate campaign and constituent functions. The cellular bill had been paid by my Senate Committee since 1995. Prior to entering the congressional race in April, my cellular phone bill averaged \$193.90 per month. After entering the congressional race, the cellular phone bills averaged \$269.89 per month. A significant part of this increase is probably reflective of the fact that for five months there was no legislative session, and during such periods calls have traditionally increased. The Senate Committee was paid \$186.39 from personal funds, and this is shown as in-kind contribution on 3/10/04 to my congressional campaign. This payment is for all calls to telephone numbers in the 5th Congressional District outside my senate district whether they were for the congressional race, senate responsibilities, personal or combined telephone conversations. All home phones (cell and land) are now billed to our personal account.

5) Payments were made by the Foxx State Senate and Congressional Committees to the same consultant, Battleship Consulting. The same firm built two

25044111115

separate websites, one for me in my official capacity as state senator (www.foxxforsenate.com); and a separate website for my congressional campaign (www.virginiafoxx.com). No reference is made on the *foxxforsenate* website to the congressional campaign. There is not even a link to the Congressional Committee's website. A prior *foxxforsenate* website was redone and paid for with Foxx's state senate campaign funds in 2003. I have a continuing responsibility to my senate constituency, and the website remains solely a site for my activities as a state senator. It is not for the purpose of influencing any federal election. A new, separate website was created for the congressional campaign, and Battleship Consulting was separately paid by the Foxx for Congress Committee for this service.

6) The Foxx Congressional Committee is paying the same firm, Battleship Consulting, and intends to continue to pay this firm for work on the congressional website. The payments to Battleship Consulting for the *foxxforsenate* website would have been made irrespectively of the Foxx Congressional Campaign. The payments to Battleship for the senate website were not in connection with a federal election.

7) Ads were bought in a North Wilkesboro newspaper in September and on an Alleghany county radio station in December of 2003 that were paid for by my state campaign.

The advertisements were not in connection with any federal election. The advertisements made no reference to my candidacy for Congress or any opposition candidates. The county where North Wilkesboro is located is split geographically with two state senators. Some constituents often were confused and suggested that I make it known that I represented them. The ad was planned prior to my entering the congressional race.

The Alleghany County radio advertisement was a repeat of a Christmas greeting that I have done for 9 years and is the standard holiday practice of many locally elected officials on this radio station. It contains no reference to my congressional candidacy. It was not a political message.

8) The Wilkesboro paper and Alleghany station are media outlets in which I have run similar constituent service advertisements in prior years. The advertisements were purchased pursuant to my responsibilities as a North Carolina state senator. These Foxx State Senate Committee expenditures would have been made irrespective of my congressional campaign. These expenditures were not made to influence a federal election.

9) The membership for the Yadkin County Chamber of Commerce was initially mistakenly paid by the Foxx State Senate Committee. This error was discovered in January after an internal review of the State Senate Committee's North Carolina year-end disclosure report, and the mistake was promptly corrected by the congressional campaign before any question was raised by anyone not directly associated with my congressional campaign. Carolyn Aldridge contacted the Yadkin County Chamber of Commerce and requested a refund of the dues payment on 02/08/04. The reimbursement

25044111117

check from the Chamber was dated February 16, 2004. The Foxx Congressional Committee issued a check in the amount of \$100.00 to the Chamber of Commerce on 02/16/04. This senate committee payment was an inadvertent mistake of de minimis amount and was remedied by my congressional campaign at its own initiative prior to any public recognition.

10) Ms. Amy Auth is now the Communications Director for my congressional campaign. Ms. Auth did originally worked for my state senate office, keeping mailing list, answering letters, sending congratulatory letters and managing other standard constituent service work. Pursuant to these state senate-related services, she was paid by the Foxx State Senate Committee. I was impressed by her work and hired her to work on my congressional campaign. Ms. Auth's employment by the congressional campaign has been paid solely by the Foxx Congressional Committee. The payments by the Foxx State Senate Committee to Ms. Auth were for her work for my state office and state campaign committee. These payments would have been made irrespective of my Congressional Campaign.

11) The Foxx State Senate Committee did disburse \$34,746.83 during calendar year 2003. These disbursements would have been made irrespective of the Foxx Congressional Campaign. The statement in the Winston-Salem Journal's February 25 column that "state senators do not spend that kind of money for constituent services and Foxx did not either" is simply wrong. Even a brief review of North Carolina's campaign disclosure reports will show that such expenditures are not unusual. Representative Lyona Grey from Winston Salem (a much smaller district than Senator Foxx's district) spent \$41,245.86 in 1999 and \$56,114.59 in 2001. Senator Mark Basnight spent \$130,350.85 in 1999 and \$147,842.42 in 2001. Senator Tony Rand spent \$69,551.70 in 1999 and \$81,885.48 in 2001. At the time of this research, 2003 results were not posted for review.

12) Significant portions of the 2003 disbursements by the Senate Committee reflect payment of expenses arising from my 2002 state senate election. The payment of \$10,500 to Capital Advertising covered consultant fees from my 2002 state senate election. Aldridge Bookkeeping has separately billed accounting and campaign financial reporting services to both the Congressional Campaign and the State Senate Campaign Committees. The \$5,700 payment from the State Senate Campaign Committee in 2003 reflects expenses arising from the 2002 election and the transfer of the State Senate Committee's financial records to a new computer system. Aldridge Bookkeeping was employed by my Congressional Committee for its accounting and reporting responsibilities beginning in the summer of 2003.

13) The state Senate Committee's purchase of a new computer to replace a 10-year old model was reflected in the reimbursement payment of \$1,863 to my husband Tom Foxx on 8/18/03. This computer is not used in connection with my congressional campaign. The Congressional committee has separately purchased another computer for congressional campaign.

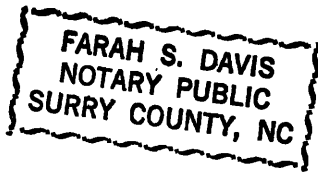
25044111118

Virginia Jax

4/21/04
Date

Seal and signature of Notary Public

Subscribed and sworn to before me on this 21st day of April 2004, in
the State of NC



Farah S. Davis

Notary Public

My Commission Expires: 10-04-07

2504411119